

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Attorney Docket No. 05-507-B**

In re Application of:)	
)	
Tae Hong Kim)	Examiner: TBA
)	
Int'l Application No.: PCT/KR05/000134)	Group Art Unit: TBA
U.S. Application No. 10/585,602)	
)	Confirmation No.: 8802
International Filing Date: January 14, 2005)	
U.S. Filing Date: July 11, 2006)	
)	
For: Apparatus and Method for Dualizing)	
An Asynchronous Transfer Mode)	
(ATM) Router In A CDMA 2000)	
System)	

Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. § 1.47(b) BY PERSON HAVING
PROPRIETARY INTEREST TO FILE APPLICATION ON BEHALF
OF INVENTOR WHO WE HAVE BEEN UNABLE TO LOCATE**

Dear Sir:

Pursuant to 37 C.F.R. § 1.47(b), UTStarcom, Inc., the owner of *UTStarcom Korea Limited*, and the assignee in fact of the above-identified patent application, submits this Petition and respectfully requests the U.S. Patent Office to allow UTStarcom, Inc. to make the Application.....
on behalf of inventor Tae Hong Kim who we have been unable to locate

06/25/2007 GFREY1
08/23/2007 GFREY1 00000058 10585602
02 FC:1463 200.00 0P

This Petition is being submitted with:

- (i) Declaration and Power of Attorney signed by Robert J. Irvine, III, a person authorized by UTStarcom, Inc to sign on its behalf;
- (ii) Statement Establishing Proprietary Interest By Person Signing on Behalf of Nonsigning Inventor and Statement Under 37 C.F.R. § 3.73(b);
- (iii) Declaration in Support of Petition Under 37 CFR 1.47(b) By Person Having Proprietary Interest to File Application on Behalf of Inventor, signed by Joo-Young Kim;
- (iv) Memorandum of Law in Support of Petition Under 37 CFR 1.47(b) By Person Having Proprietary Interest to File Application on Behalf of Inventor, including exhibits, signed by Joo-Young Kim; and
- (v) Declaration in Support of Petition Under 37 CFR 1.47(b) By Person Having Proprietary Interest to File Application on Behalf of a Nonsigning Inventor, including exhibits, signed by Jiwon Lim.

The last known address of inventor Tae Hong Kim, who is a citizen of Korea, is:

San 136-1
Ami-ri, Bubal-eub
Icheon-si, Gyeonggi-do 467-860
Republic of Korea

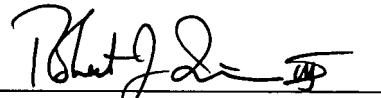
UTStarcom, Inc. respectfully submits that it has been unable to locate inventor Tae Hong Kim. Every attempt to obtain Tae Hong Kim's signature has been unsuccessful. As evidenced by the accompanying declaration of Jiwon Lim, continuous and diligent efforts have been made to obtain Tae Hong Kim's signature on declarations for this case. Based on such diligent efforts to obtain Tae Hong Kim's signature on the declaration for this case, and based on the fact that, even without Mr. KIM's signature, UTStarcom, Inc. is the owner of the present application, as demonstrated by Joo-Young Kim's Memorandum of Law in Support of Petition Under 37 CFR 1.47(b) By Person Having Proprietary Interest to File Application on Behalf of Inventor and Joo-Young Kim's Declaration in Support of Petition Under 37 CFR 1.47(b) By Person Having Proprietary Interest to File Application on Behalf of Inventor (attached), we believe that the requirements of 37 C.F.R. § 1.47(b) and MPEP § 409.03 have been met.

Filing of the application without Oath or Declaration executed by Tae Hong Kim is necessary to preserve the rights of Applicant UTStarcom, Inc. Applicant UTStarcom, Inc. will suffer irreparable harm if not allowed to apply for a patent for the above-referenced Application because the United States Patent and Trademark Office will hold the present Application abandoned if it is without an executed Oath or Declaration.

This Petition is being submitted with the fee set forth in 37 C.F.R. § 1.17(g), which is currently set at \$ 200.00.

Respectfully submitted,

Date: June 20, 2007

A handwritten signature in black ink, appearing to read "Robert J. Irvine, III", written over a horizontal line.

Robert J. Irvine, III

Reg. No. 41,865

McDonnell Boehnen Hulbert & Berghoff LLP

300 South Wacker Drive, Ste. 3100

Chicago, IL 60606

Tel: 312 913 - 0001

Fax: 312 913 - 0002

**DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION
FILED UNDER 37 CFR 1.47(b) and USC §118**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**APPARATUS AND METHOD FOR DUALIZING AN ASYNCHRONOUS
TRANSFER MODE (ATM) ROUTER IN A CDMA 2000 SYSTEM**

the specification of which is attached hereto unless the following space is checked:

☒ was filed on July 11, 2006 as United States Application Serial Number 10/585,602.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 (including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application).

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s):

	<u>Number</u>	<u>Country</u>	<u>Day/Month/Year Filed</u>
1.	PCT/KR2005/00134	PCT	14 January 2005
2.	10-2004-002973	Korea	15 January 2004

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

	<u>Application Number</u>	<u>Filing Date</u>
1.		

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

	<u>Application Number</u>	<u>Filing Date</u>
1.		

I hereby appoint the practitioners associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and I direct that all correspondence be addressed to that Customer Number.

Customer Number: **020306**

Principal attorney or agent: Robert J. Irvine, III

Telephone number: 312-913-0001

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: **Tae Hong KIM**

Inventor's signature: **Unreachable** Date: _____

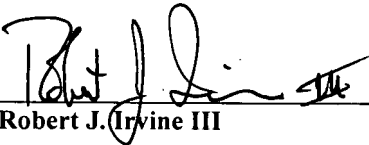
Residence: **San 136-1, Ami-ri, Bubal-eub, Icheon-si, Gyeonggi-do 467,860, Republic of Korea**

Citizenship: **Republic of Korea**

Post Office Address: **San 136-1, Ami-ri, Bubal-eub, Icheon-si, Gyeonggi-do 467,860, Republic of Korea**

I, **Robert J. Irvine, III** hereby declare the following:

1. I am a citizen of the United States of America, residing at 719 Sigmund Road, Naperville, IL 60563.
2. I am authorized by the assignee, UTSTARCOM KOREA LIMITED, for whom I am an attorney, to sign this declaration on its behalf.
3. By virtue of this proprietary interest, I sign this declaration on behalf of and as agent for Jung Hee Park, the inventor who has refused to sign.
4. Upon information and belief, I aver the named inventor or inventors to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought.
5. Upon information and believe, I aver those facts that the inventor is required to state.



Robert J. Irvine III

Date: June 20, 2007

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(ATM) Router In A CDMA 2000)	
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Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
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**STATEMENT ESTABLISHING PROPRIETARY INTEREST BY
PERSON SIGNING ON BEHALF OF NONSIGNING INVENTOR
AND STATEMENT UNDER 37 C.F.R. § 3.73(B)**

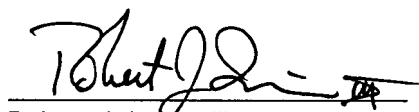
UTStarcom, Inc. has a sole proprietary interest in the present application. The invention was originally assigned by inventor to Hyundai Syscomm on November 27, 2002, as part of Hyundai Syscomm's employee invention compensation policy, and was filed as Korean National Application Number 2004-0002973 (Exhibit A). On April 27, 2004, UTStarcom, Inc., through its wholly owned subsidiary in Korea, UTStarcom Korea Limited, acquired Hyundai Syscomm's Intellectual Property Portfolio, including the rights to the above-referenced application, corresponding to Korean National Application Number 2004-0002973 (Exhibit B, page 46 of 46, entry number 1319). I establish this proprietary interest

by attaching a copy of the assignment of this invention by the nonsigning inventor to Hyundai Syscomm, Inc. as recorded with the U.S. Patent and Trademark Office, and a copy of the assignment of this invention by Hyundai Syscomm, Inc. to UTStarcom Korea Limited as recorded in the Patent and Trademark Office (Exhibit B). As such, UTStarcom, Inc. is presently the assignee and owner of the rights to the above-referenced application.

This STATEMENT ESTABLISHING PROPRIETARY INTEREST BY PERSON SIGNING ON BEHALF OF NONSIGNING INVENTOR is made by Robert J. Irvine, III, a person authorized to act on behalf assignee UTStarcom, Inc.

Respectfully submitted,

Date: June 20, 2007

A handwritten signature in black ink, appearing to read "Robert J. Irvine, III", is written over a horizontal line.

Robert J. Irvine, III

Registration No.: 41,865

McDonnell Boehnen Hulbert & Berghoff LLP

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